

Nordic Human Rights
Study 2015
Human Rights
Management in
Nordic Businesses



Preface

Dear Reader,

The importance of human rights is one of the few things on which most people, and even nations, agree. Already the next step is more difficult: how we understand human rights depends on context, personal as well as cultural values, traditions and experiences. Recently, drivers such as new soft law instruments, media scrutiny, pressure from civil society, and investor interest have ensured that human rights are gaining ever-wider attention by companies.

If the topic of human rights is complex on personal and political levels, adding corporate realities to the equation does not make things easier. What do companies talk about when they discuss human rights? What explains the current trend-like enthusiasm to take on the human rights challenge? How are companies managing human rights in practice – if they are? And, what are the common pitfalls? What does good practice look like?

In this study, we offer insights into how leading Nordic and European companies understand, manage and develop their human rights commitments. Moreover, we summarize key challenges and success factors related to managing human rights. The study can be used for different purposes: from gaining an overview of the status of Nordic and European companies' human rights management to getting specific ideas and recommendations for what to do in practice.

We would like to take the opportunity to thank all of the interviewed experts for taking time to enlighten us on their approach to human rights. We believe that these discussions have been much more than a source of valuable, interesting data – they are an important step in the journey towards a shared language for corporate human rights impact management. And, we hope, towards a world where human rights are firmly promoted and protected.

Sincerely,

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Executive summary

Inspired by the widespread interest in the UN Guiding Principles on Business and Human Rights (hereafter UNGP) and through a desire to further the understanding of the field, Deloitte has conducted two studies on human rights: one among the largest companies in Europe and a separate study in the Nordics. *The Deloitte Nordic Human Rights Study* has its point of departure in interviews with 26 of the Nordic region's largest companies to find out whether human rights are on the corporate agenda and how companies are managing related risks. The study includes findings from all the five Nordic countries.

The study highlights that the launch of the UNGP has been central in triggering the current interest within companies to engage in human rights management. It found that securing top management's commitment to integrating human rights measures in the business was not generally difficult. However, many companies face challenges when trying to translate human rights management into actual actions, as use of the term 'human rights' often lacks specifics in relation to business practices. Accordingly, human rights management is often a 'hard sell' internally in the organization and externally to suppliers and other business partners. The study shows that public exposure to human rights-related crises tends to make it easier to find the necessary internal buy-in for strengthening an organization's management of human rights.

The study proposes a three-level distinction of how companies are working with human rights:

- ***The Forefront:*** Companies that have undergone human rights-related crises or operate in a high-risk industry. The internal buy-in is manifest among pioneer companies, and human rights is part of due diligence, with Human Rights Impact Assessments often undertaken. The pioneer companies are now focusing on integrating remedy mechanisms.
- ***The Midway:*** Companies that have not experienced any major crises related to human rights. For these companies the UNGP is a major driver. Top management is committed, but the engagement of middle management and an overall integration of human rights measures remain a challenge.
- ***The Waiting Room:*** These companies have not been significantly exposed to human rights risks – yet. Often these companies have a local rather than global focus for their operations.

Which human rights issues are most relevant to focus on varies depending on the industry, geographical reach, client and supplier base, as well as the company's size. Some of the most common issues mentioned in the survey include data privacy, labor rights, right to health, and intellectual property rights. The concern regarding labor rights relates both to a company's own operations and to the management of its supply chain, where companies highlight the operational and reputational risks associated with human rights. From these conclusions, the study proposes a set of recommendations for how companies, going forward, might succeed in identifying, mitigating and managing their human rights risks – today as well as in the long-term.

Introduction and background

From Nigeria to Norway, from faraway factories to the local supermarket, human rights are a deeply embedded part of society, human interaction and daily business activity.

Since the 1980s, private multinational companies have witnessed a growing yet changeable public interest in human rights impacts and violations by businesses. In the 1990s, non-governmental organizations (NGOs) highlighted child labor and other abuses in the supply chains of prominent companies in interior design, apparel, and footwear industries, drawing media interest to the subject. Voluntary Corporate Social Responsibility (CSR) programs to tackle human rights challenges, among other things, are now quite commonplace.

However, the issue of human rights goes beyond voluntary approaches. The preamble to the Universal Declaration of Human Rights (1948) calls on “every individual and every organ of society” to promote and respect human rights. Pressure from media,

NGOs, and increasingly also from governments and other key stakeholders has led to human rights becoming an ever more established part of the corporate compliance and opportunity management agenda. Lately, the endorsement in 2011 of the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the emergence of National Action Plans to implement the Principles have positioned human rights as a key management topic of 2015 – and beyond (United Nations Human Rights, 2015).

This study is part of Deloitte’s international initiative to find out why, how and with what success European businesses are addressing human rights in their strategy and operations. In this study, the UNGPs are used as a framework to highlight the main trends in corporate management of human rights impacts in the Nordic region. Furthermore, we compare the findings to the conclusions drawn in a parallel study on the largest European companies to broaden the scope and learning about the current status of working with human rights.

The goal of the study was to find out:

- If human rights are on the corporate agenda
- Why they are important for businesses
- How companies are working with human rights in practical terms
- What are the key challenges and success factors

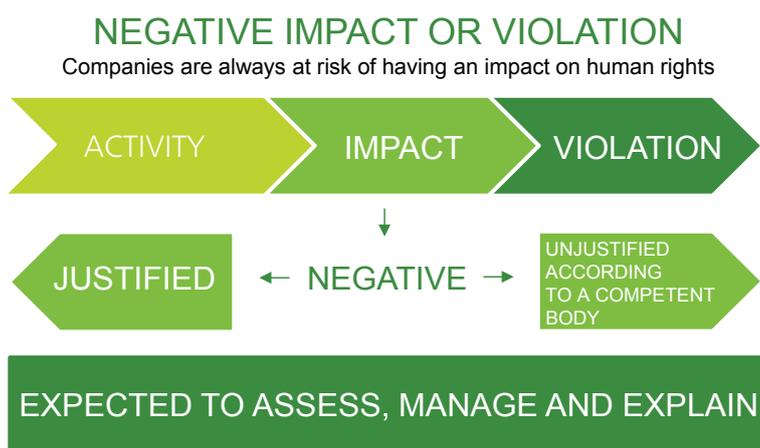


History and current trends of the corporate human rights agenda

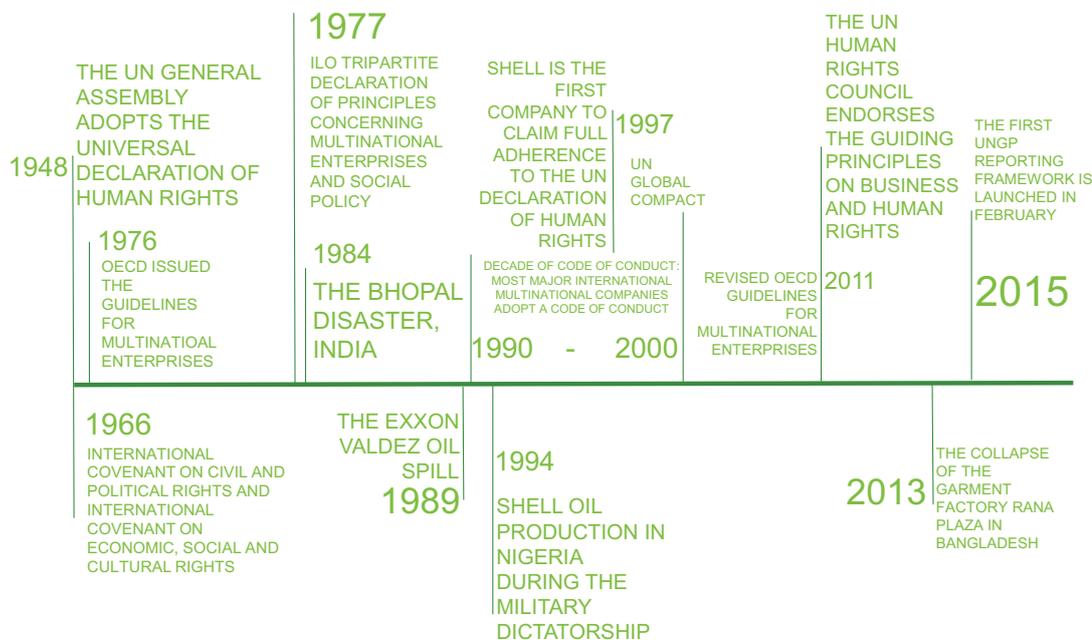
The foundation of the international human rights framework was laid in 1948, when the UN General Assembly adopted the Universal Declaration of Human Rights. The Universal Declaration led to the adoption of binding global treaties on human rights: the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. Thematic UN treaties have also been adopted on the rights of women, children, migrant workers and people with disabilities; as well as freedom from genocide, racial discrimination and torture. UN special procedures such as working groups, special rapporteurs and independent experts are appointed on issues such as business and human rights and the rights of indigenous people. The International Labor Organization has adopted numerous conventions on rights at work. Eight are regarded as core conventions. However, there is not yet any universal mechanism for victims of human rights abuses to bring complaints against companies (Business & Human Rights Resource Centre, 2015.)

The UNGP came about as a result of years of UN efforts to create a global human rights standard for businesses. Since the 1970s, several efforts at this had foundered. The wake of the new millennium brought a more positive tone. In 2000, the UN launched the voluntary principles of the Global Compact to mainstream ten principles for responsible business and for promoting UN goals at large. In 2005, the UN Secretary-General appointed John Ruggie a special representative on the issue of human rights and transnational corporations and other business enterprises. During his mandate, and after extensive research and consultations, he produced the Guiding Principles. Finally, in 2011, the UN Human Rights Council endorsed the Guiding Principles on Business and Human Rights by consensus, creating the first global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity (United Nations, 2011; The Kenan Institute for Ethics, 2012).

Although the primary duty to protect human rights remains with the state, companies have a responsibility to respect human rights in their operations. After the endorsement of the UNGP, businesses have witnessed rapidly growing stakeholder pressure and a sense of urgency to tackle the issue of human rights. As confirmed by our own findings, the UNGP have gained recognition at an almost unprecedented pace. NGOs, such as Danwatch, Finnwatch and Swedwatch, are actively publishing sectorspecific reports on gaps in human rights performance. Investors, particularly those with a Socially Responsible Investment (SRI) focus, are asking for more and more detailed information. The media loves the topic – and in recent developments, an international group of recognized NGOs and human rights activists are to launch the International Human Rights Rank Indicator, the first ever human rights “index” on corporate performance (International Human Rights Rank Indicator, 2015).



Any human activities – whether by individuals, states or private businesses – may have impacts on human rights. When these impacts are deemed unjustified by a competent body, the term human rights violation is used. (Deloitte analysis, 2015)



Timeline: Business and Human Rights Highlights, Deloitte 2015

Furthermore, the first UNGP reporting framework was launched in February 2015. All this put together, the pressure and momentum to develop human rights management is on, and more emphasis is put on human rights within the broader corporate responsibility agenda (Deloitte analysis, 2015).

The UNGP consist of three pillars: the state duty to protect human rights, the corporate responsibility to respect human rights, and the access to remedy for victims of business-related abuses. These three pillars are now interpreted into actions by businesses and states. On a national level, states have started drafting, approving and implementing National Action Plans. In the Nordic countries, Denmark was the first in 2014 to launch a National Action Plan, followed by Finland. Norway and Sweden are committed to do the same. Typically, the National Action Plans include both high-level commitments and specific measures to ensure that the UNGP are put into action by businesses, and that the government can support this process.

The three pillars of the United Nations Guiding Principles



Model based on the UN Guiding Principles

As for corporate measures to establish human rights management, the UNGP give overarching guidance on the human rights due diligence needed but no detailed methodology on how to manage human rights in practice (Götzmann, 2014). Thus, businesses have taken on different approaches and tools to manage their human rights impacts. As such, human rights management is a process like any other – to be understood from commitment through action to communication. The complex content, however, increases the level of difficulty in both how the subject is understood and in how it is integrated into existing management processes and commitments.

Recently, interest in the UNGP has shifted to the less-discussed third pillar: the need for greater access to effective remedy. This pillar addresses both the state's

and the corporation's responsibility to provide access to remedy. For the state, the duty is to provide access to effective remedies and take appropriate steps to ensure this through judicial, administrative, legislative or other appropriate means, whereas the corporate responsibility is to prevent and remediate any adverse impact on rights to which they contribute. Operational level mechanisms are encouraged to operate through dialogue and engagement, rather than the company acting as the adjudicator of its own actions (United Nations, 2011). Both for the governmental and for the corporate implementation of the UNGP, access to remedy seems to constitute a challenge, but it is also the most crucial part in terms of guaranteeing the continuity of human rights commitments and actions.

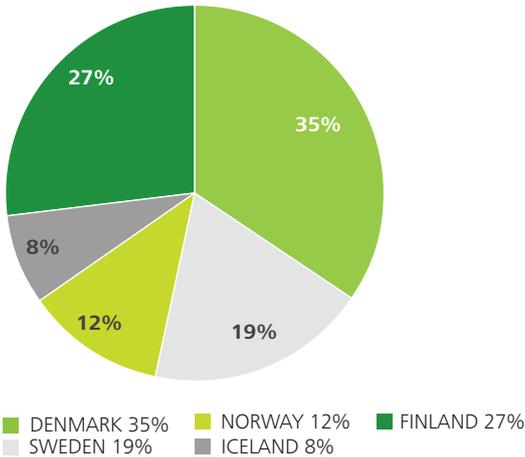


Methodology

The findings of Deloitte’s Nordic Human Rights Study are based on both qualitative interviews and on an analysis of secondary sources, such as literature, reports, articles, ratings and company websites. The combination of qualitative and quantitative data allows for a deeper understanding as well as a broader perspective and background on the subject. The Nordic Human Rights Study is a parallel survey to a European study on human rights conducted over the same period by Deloitte France.

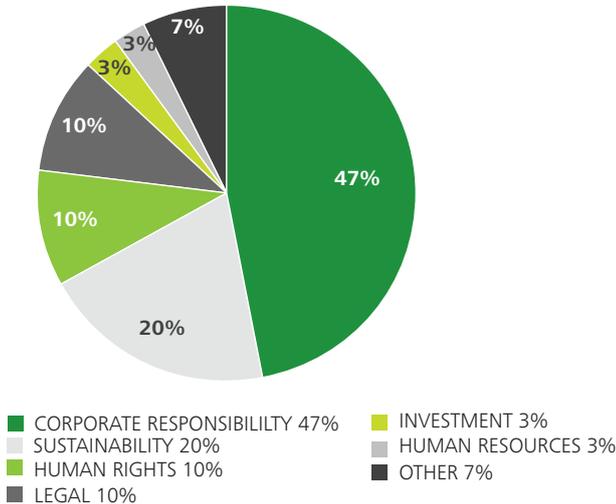
The Nordic research was conducted between December 2014 and March 2015. A total of 26 semi-structured qualitative interviews were conducted, covering all the five Nordic countries. Similar to the European study, the interview structure was based on the UNGP framework to ensure that all UNGP-relevant aspects were covered. All participating companies are among the top 25 companies in each country, measured by revenue. This scope was chosen based on the assumption that the largest Nordic corporations would offer the most versatile and mature insights into the topic, since human rights management in its own right, as represented by the UNGP, is still an evolving, relatively new area.

Share of interviews per country



Geographical distribution of people interviewed for the survey

Share of interviewed per function



Distribution across corporate departments of people interviewed for the survey

Key findings and discussion

Despite the surveyed companies having different supply chains, customer bases and national contexts, the findings of the study are clear:

- The UNGP has triggered the current interest in companies to engage in human rights
- Human rights are not 'a new thing' – but human rights management in its own right is
- Getting top management's commitment is not difficult – translating it into action is
- Industry, geographical scope, client and supplier base, size and exposure to public scrutiny matter more than country of origin
- 'Nordic legacy' is a double-edged sword
- Large Nordic and European companies are at the same stages of developing their human rights approaches
- The harder the company has publicly been hit by human rights-related crises, the easier it is to get the necessary internal buy-in
- Challenges and success factors are strikingly similar for most companies
- The most underdeveloped area of human rights management is human rights complaints mechanisms

How human rights are understood

We started the journey towards a better understanding of human rights management in practice by looking into how companies describe human rights as a topic and how they see the current and future developments of the field.

Clearly, the top themes vary and are industry-specific and/or specific to the geography of both the company and its supply chain. The textile industry has been facing labor rights-related issues for decades, while the telecommunications sector is associated with data privacy challenges. In other industries, companies specify topics of concern to include the right to health, intellectual property rights, children's rights, use of private security agents, or the impact of climate change.

However, across industries, labor rights were the most commonly and widely mentioned issue that requires more attention or is expected to stay in the spotlight for many more years. Furthermore, most companies mentioned working conditions, supply chain-related issues, and equality or non-discrimination. As an issue, labor rights apply both to the Nordic setting and to the supply chain. Although the focus and severity of impacts and related challenges may vary greatly, these topics can be seen as the smallest common denominator among human rights issues for businesses. As a topic of growing concern, data privacy is gaining ground on the corporate agenda in most companies.

Human rights are inevitably becoming an integral part of business governance and management in the longer term. This is the clear message from Nordic companies, although they believe that this development will take time. The respondents believe that human rights will become integrated in existing frameworks and processes rather than in separate human rights management systems. As their frame of reference, the majority of companies interviewed apply the UNGP. Similarly, all but two of the interviewed companies have signed the UN Global Compact.

With the international awareness and faster stakeholder communication, the pressure will be on – human rights will not go away.

Services Industry

Risk and opportunity related to human rights

The findings on human rights risks indicate that when contemplating human rights risks for businesses, reputational risk tops the agenda. Most companies maintained that other risks, such as financial risks, did exist but that these are often translated through the reputational risk as well. The interviewees mentioned well-known human rights cases covered by the media, such as textile or technology companies and their child labor-related cases. According to many interviews, it is a fact that reputational risk is, at large, becoming more and more established on the corporate agenda, and that much of the most significant reputational risk is related to human rights.

Many companies, particularly those with severe human rights challenges in their supply chain, also considered operational risk to be significant. Operational human rights risks include operational disruption, such as the closing of factories due to human rights breaches. Those companies that viewed operational risk and human rights in the same context appeared well equipped to internally and externally show the value of more effective risk management around human rights, as operational risk is more established in the field of risk management than reputational risk.

Some considered, often through operational risk, legal risk to also constitute a major threat, while others saw it as having little significance. The attitude towards legal risk resonated closely with how the company in question saw the likelihood of 'soft law' becoming 'hard law' in general. Another group of companies could not pinpoint one particular risk, but believed that human rights management contributes to managing a combination of risks.

While human rights were mainly perceived as an issue of maintaining a license-to-operate, company views varied on the added business value of human rights management. Brand image and employer image were often mentioned as potential sources for business opportunity and competitive advantage. For example, one of the interviewed companies observed that human rights risk management could influence the cost of insurance premiums positively.

We have worked with human rights for some years, but until now we have called it "employee satisfaction", "health and safety" etc. – as such it is part of our Nordic heritage

Manufacturing Industry

Interestingly, the study showed that Finnish companies saw more opportunities for competitive advantage than their Danish counterparts did. For instance, Finnish companies mentioned new business ideas related to human rights, such as accessibility-related business development in the retail sector or employing user-friendly data privacy services as a differentiator in the telecommunications sector. The fact that Danish companies saw less opportunities appear to correlate with the higher concern for additional human rights regulation, a finding discussed further below.

Commitment strategies

When asked about key drivers for their commitment to human rights, most companies pointed to peer pressure, pressure from other external stakeholders, a response to a human rights incident, or a desire to simply "do the right thing". The survey identified the presence of top-level engagement or years of a triple-bottom-line approach as further reasons for their commitment.

Most companies did not mention regulatory pressure as a key driver for their corporate commitment. However, regulators have had an influence on forming the agenda and shaping the pressure from other stakeholders, as they have been actively promoting the UNGP, sharing of best practices, and other soft law instruments. Yet, **it is worth noting again that the Danish companies felt significantly more pressure by regulators than the rest of the Nordics did.** Overall, Nordic businesses' commitment to human rights comes from a 'Nordic legacy' to do things right, implying a normative, value-based approach as the most prominent.

On the question of how likely that additional human rights regulation would be issued, the views were less homogenous. The companies already working systematically with human rights did not regard the possibility of major human rights compliance becoming hard law as a major issue. Most companies did not believe that regulation would follow in the near future, although several interviewees maintained that hard law instruments would come eventually at a later stage. However, for Danish companies, the 'threat' of hard law instruments seemed much closer to materializing than for their Nordic peers.

In general, the more mature the corporation's human rights approach was, the more positive their position on regulation was. More mature companies saw regulation as a source of possible competitive advantage or as something that has less significance, since these companies were positive that they would already fulfil even stricter human rights criteria. However, even these companies maintained that legislation might not be the right approach to best promoting human rights in business, and that such legislation would need to be extremely clear, well defined and appropriately scoped. Most companies either were against such legislation or considered the question irrelevant at present. Some companies pointed out that the discussion should not be about increased regulation of companies, but on how Western governments could put more pressure on those states that have not yet implemented human rights legislation and therefore pose human rights risks for companies operating on the ground.

Aside from the regulator, major pressure groups vary from company to company and industry to industry. Publicly listed companies in Sweden reported on **an increased interest and understanding from investors in human rights issues**, thus causing more pressure from investors as well. This may be a result of the UNGP as well as major human rights-related incidents gaining wide media attention in the last few years, such as the Rana Plaza accident in 2013. The 'traditional' stakeholder pressure sources, namely media and NGOs, were mentioned repeatedly. Interestingly, it emerged that the companies having a long-term commitment and working systematically with human rights for years consider the 'pressure effect' of the media to be secondary. NGOs were seen as having a dual role as both 'allies' and 'enemies', meaning that they are potential collaboration partners as well as those who pressure companies to do more.

The nature of their business also defines how the interviewees positioned their clients as sources of pressure. Typically, in the business-to-business manufacturing industry, clients were reported to be very active in terms of having supplier codes of conduct in place, as well as threshold standards requesting human rights actions, while retail and other business-to-consumer sectors did not face a similar situation. Consequently, **clients were considered both the most – and the least – pressure-exerting stakeholder group, depending on the company and industry.**

The risk with regulation is that it hinders innovation and flexibility – it is better if the company decides to do it on its own instead of being told what to do from external actors

Services Industry

Human rights and other CR-related topics emerged as spreading out through a similar domino effect: companies are pushing each other towards more robust human rights management and general CSR commitments, by demanding that their suppliers can document good CSR management. This works in the business-to-business sectors, but according to the interviews the regular consumer is less active as of now. However, certain 'personal' human rights topics, such as data privacy, are gaining more and more attention among consumers and thus among the business-to-consumer sectors.

Key challenges in embedding human rights...

- Human rights commitments are only partly implemented and managed
- No coherent, systematic human rights approach exists: human rights are included in the context of labor or social compliance and 'by accident' happen to also fulfil the criteria for human rights compliance
- The integration of human rights into all needed steps of the corporate management and due diligence system
- The definition key performance indicators (KPIs) for human rights

...and what are the key success factors to conquer the challenges

- Internal commitment on all levels, particularly that of middle management
- Creating an enabling environment, i.e. resources and ownership
- Developing a common language for human rights management throughout the organization
- Making human rights as specific and contextual as possible
- Other success factors depend on the industry: for some, industry collaboration has been a key to success, for others that is not a possibility



Embedding human rights in business

For most Nordic companies, the initial human rights-related approach has been the development of a Code of Conduct and/or joining the United Nations Global Compact. However, before the UNGP, companies did not have a name for human rights, even though many already had initiatives in this area.

As such, the UNGP have catalyzed the process of identifying human rights and a more systematic approach to human rights management. Because of the fast developments after the launch of the UNGP, a systematic approach to human rights is still a novel thing for most Nordic businesses. Usually, the more systematic approach starts with a 'light' Human Rights Impact Assessment (HRIA). Some of the interviewed companies had just completed an HRIA, while most companies reported that they would be doing so over the coming 12 months.

Other popular initiatives included industry initiatives and audits, which companies are now re-evaluating in terms of how to develop these approaches in their context and as part of a more robust human rights management approach. **In the area of industry initiatives, significant differences between industries exist in terms of whether or not collaboration is possible.** For instance, the production, textiles and retail industries have a long-standing tradition of working together via international collaboration, e.g. the Business Social Compliance Initiative (BSCI), or national collaboration, e.g. the Danish Ethical Trading Initiative. Our interviews confirmed that the paper and pulp or construction industries did not have similar possibilities due to competition issues.

Approach to handling conflict between local law and own policies

One of the most difficult questions for companies in the study concerned the approach to managing a conflict between own policy and local law or traditions. For some, this posed "an immensely difficult question faced almost every day", while others stated that the question has so far remained quite irrelevant to them. Here, different operational and supplier contexts constitute a major explanatory factor. Most companies opt for a case-by-case management approach, as situations may widely differ. Most often, the main challenge is faced when the local obligation is in fact in contradiction with the company's own policy and international standards. Several respondents mentioned minority rights and equal treatment of employees as examples. For instance, companies operating in developing countries have had issues with local law prohibiting homosexuality, which creates a dilemma on how to handle potential homosexual employees: according to Nordic values or the local norm? A large group of the companies believe that the company should follow own policy where that gives priority to international standards. However, the case-by-case approach could facilitate a harmonization, whereby international standards in practice are implemented without violating national law. Another common approach is following the company's own policy, which states that the company's policy is to follow the local law. Overall, the companies that operate in countries with severe human rights challenges and lack of human rights implementation by the government maintained that there was no easy answer to this question, and that it was one of the most fundamental human rights problems for business.

Most companies with long-term social compliance commitments reported that they were re-evaluating the effectiveness of auditing suppliers. From only auditing suppliers, the focus is increasingly shifting to training and capacity building of suppliers combined with a company-level or collaborative social, quality and/or environmental audit program.

As for the embedding of human rights in a corporation's own activities, the main challenges vary. Human rights are broad and sometimes hard to grasp, and not surprisingly it is hard to translate commitment into concrete actions, goals, KPIs and, most importantly, into internal commitment on an operational level. Strikingly often, companies reported that top management commitment was usually not the hurdle, but putting 'words into actions' was, and that this was caused by the intangible nature of human rights. **Our core finding is that getting middle management's commitment and seeing that commitment translated into specific operational actions is typically a key challenge.**

The extensive and vague nature of the area partly adds to, partly causes, this challenge, as human rights may seem too theoretical to be linked to the bottom line and everyday operations. Thus, several companies mentioned making human rights specific and contextual as a key to success. How this is done, in reality, varies from company to company, but many mentioned measures such as context-related training in the company's code of conduct or code of business ethics. The training programs vary and may include e-learning programs. Some companies find it beneficial to use cases from the company's grievance mechanism as a method for making human rights more specific. One company uses a cascade of KPIs to create coherence between different levels or units in the company. Another focuses on establishing a common concept of understanding within the company in order to ensure that everyone is speaking the same language. Interestingly, in our sample of interviews, no company reported the use of incentives for integrating human rights, but we found that the percentage of supplier contracts with a human rights clause is used as a KPI for procurement. Companies found the development of KPIs to be a challenge, especially finding any specific, well-functioning KPI examples that are relevant and interesting for embedding human rights successfully in the future.



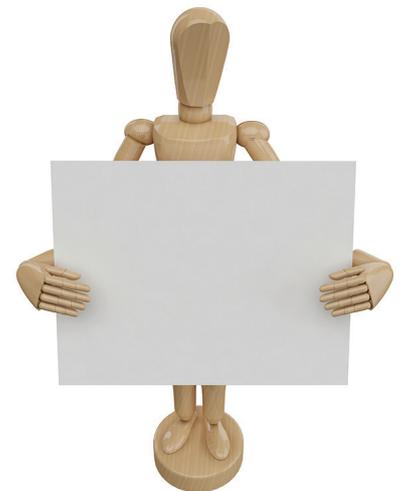
Despite definite challenges in the integration of human rights, there are clear indications that the company commitments are also playing out in the reality. Almost surprisingly often, considering the novelty of the UNGP-inspired emergence of the human rights agenda, companies reported that they had either exited or not entered a country, based on human rights findings in a due diligence process.

However, usually in these decisions human rights was one among several decisive factors, coupled with other business risks, as human rights risks tend to go hand-in-hand with other reputational and operational risks. For most large companies with a global reach and a global supply chain, human rights has been a natural, integrated part of the due diligence process already for years – although often not necessarily categorized as human rights but rather social compliance. These companies are now mapping out what they are already doing in terms of human rights and then analyzing the gaps between current human rights-related actions and the UNGP approach.

Another interesting finding is the strong focus on the supplier point of view in the company responses as well as in the whole human rights discussion. As one respondent pointed out, the due diligence process needs to be both upstream and downstream, as human rights impacts occur at all stages of the product or service lifecycle. The current focus, according to our findings, is on the upstream due diligence, but issues such as growing concerns for privacy are shifting the focus to a broader approach, including also the human rights issues downstream from a company's own operations.

THE OECD NATIONAL CONTACT POINTS

- The OECD Guidelines for Multinational Enterprises draw upon the UNGP. The Guidelines are supported by National Contact Points (NCPs), which are agencies established by adhering governments to promote and implement the Guidelines.
- Adhering governments are obligated to set up NCPs whose main role is to further the effectiveness of the Guidelines by handling enquiries and contributing to the resolution of issues.
- The NCPs assist enterprises and their stakeholders with measures to further the observance of the Guidelines. They provide a mediation and conciliation platform for resolving practical issues that may arise in implementing the Guidelines.
- Companies' understanding of the significance of the NCPs varied in the Nordic countries, depending mostly on the visibility of the NCPs.



How companies work with suppliers and other partners

In general, the survey found that the more criticism companies have received regarding human rights in their supply chain, the more engaged, humble and open they now are about their human rights actions. The general rule of 'the more you know, the better you know what you do not know' applies here; companies at the forefront of human rights management stated that their leading practices are only the beginning of a continuous journey.

Given the increasingly globalized nature of supply chains today, the human rights profile of suppliers is often at the center of discussions around human rights in business relationships. However, the scope of a company's human rights approach most often only includes main suppliers in the first tier of the supply chain. Most companies surveyed therefore emphasized that their management activities are still very much a work-in-progress. Some of the companies at the forefront reported that mergers and acquisitions as well as joint ventures have human rights due diligence embedded in them, but often even in these cases, it appeared that the human rights perspective is only taken into account relatively late in the decision-making process, or even after the overall decision to proceed has been taken. Moreover, being careful not to be associated with certain business partners was also an approach noted by many but embedded by few.

The respondents maintained that exerting influence over suppliers is all about bargaining power: being a large client obviously entails greater bargaining power, and suppliers are more willing to collaborate. In addition, suppliers appear interested in capacity building, developing audit practices and other related actions. The survey also indicated that some companies, despite lacking superior bargaining power, had successful collaboration with suppliers once the latter understood the benefits and potential competitive edge to be gained from the capacity building and learning provided by the client company vis-à-vis other clients. However, without bargaining power, the companies interviewed found their influence over suppliers to be limited at best. Of-ten,

the most effective method to ensure supplier compliance was reportedly the full integration of expected human rights standards into the supplier negotiation process. In this common approach, only human rights-compliant companies may proceed to contract negotiations. Moreover, as mentioned earlier, companies from industries that have a history of cooperation regarded industry collaboration as a good approach.

Thus, the main challenges for embedding human rights in business relationships vary depending on the company's bargaining power vis-à-vis suppliers, and in fact, some challenges appear to be independent of company context.

Most companies note that a **lack of transparency in their supply chains constitutes a fundamental challenge**; not knowing what to manage when managing human rights was a fundamental problem for companies – and the area in which many are investing major efforts at present. These actions link human rights clearly to risk management and operational supply chain management: companies stated that they are looking into what kind of supplier data to gather and monitor in order to understand potential human rights risks and to obtain the necessary early warnings from a data management system.

The most cited challenge is associated with **cultural differences**. Most companies recognize that the lack of knowledge about human rights issues exhibited from both suppliers and from the companies themselves regarding the local cultural context and conditions poses a challenge. This lack of a mutual language is coupled with – and accelerated by – an apparent cultural collide with a 'Western' human rights approach and different set of norms. **Many companies feel powerless in the face of a huge, global supplier base** of which they have only a very limited overview and which represents unknown cultural contexts and traditions that may entail major human rights impacts.

If we keep receiving red alerts – e.g. regarding working hours – we are willing to enter into a collaboration with them, if they are ready to improve

Manufacturing Industry

Despite such challenges, companies are also taking the initiative to solve the problems. Some companies have streamlined the number of suppliers or divided them into different categories in order to implement different approaches for managing the relationships. Furthermore, companies reported training of key suppliers, constructive follow-ups on internal or external audits, and cooperation with internationally recognized NGOs as successful tools to start working with the suppliers.

Overall, the survey findings suggest that companies focus on human rights in the supply chain over and above other business relations, but integrating human rights in business decisions is increasingly part of a due diligence process and is expected to gradually become more integrated in other business relationships as well.

Approaches to non-compliance

In the case of non-compliances by suppliers, capacity building was clearly the priority for most companies interviewed, but usually companies retain the termination option to ensure maximum bargaining power vis-à-vis suppliers. Termination of contract may be an option, if the breach is considered severe enough. However, the interviews showed that termination of contract was rare and needed to be well-grounded to take effect. Some companies informed that they had established procedures for terminating a contract with a supplier.



Stakeholder consultation and transparency

The survey found that formalized stakeholder consultation processes are still rare in the context of human rights, but many companies have several different approaches to stakeholders, and some have formalized ways of working with each major stakeholder group.

Most publicly listed companies have robust processes for investor dialogue, for dialogue related to mergers and acquisitions, for client communications and often even for consultation with NGOs. However, these approaches are part of standard practice, in other words not specifically tailored to explain the human rights approach, although human rights may be part of these dialogues. The most mature companies reported that they are currently building their human rights stakeholder consultation processes. A few companies at the forefront already had such processes in place.

Where companies differentiated between internal and external stakeholders, Danish companies often referred to internal stakeholders as the various workers' councils within the company as well as traditional processes for internal consultations with shop stewards and others. One company observed that their internal stakeholder consultations were essential to actual moving the human rights agenda forward.

Interestingly, the survey found that companies held significantly different views on the value of external stakeholder consultation; for many, stakeholder consultation was greatly valued for the risk assessment process, while others maintained that it was valuable for everything else but that. This may be due to considerable differences in the quality of dialogue with stakeholders or due to differences in geography and industry. Another aspect highlighted by many companies interviewed is securing the initial commitment and buy-in for human rights management – for this, stakeholder views are valuable and may support building the internal business case. This links to the above-mentioned view of NGOs as both allies and enemies; even negative attention to a company's human rights management may help, firstly, with identifying

We differentiate between external and internal stakeholders. It is all about communicating with people the right way, and I think internal stakeholder management is crucial if you want to work with CSR
Manufacturing Industry

potential human rights risks and, secondly, gaining internal understanding of the importance of human rights management.

Transparency is a major part of a well-functioning human rights approach. The majority of interviewed companies report on human rights as part of a regulatory obligation to report on sustainability or as a member of the UN Global Compact. Others, particularly Finnish companies, use the GRI reporting framework, which includes several human rights indicators.

For most companies interviewed, audits are a way of ensuring the reliability of human rights-related data. This can take the form of audit programs on suppliers or, most often, human rights issues are integrated in the process of external assurance of a CSR or sustainability report. However, as many companies highlighted, the human rights information is usually not categorized as human rights data but as social responsibility and labor rights data, thus once again emphasizing the lack of human rights-specific KPIs and a defined, systematic human rights process. However, exceptions to this rule do exist: during the research process, a Nordic company made the report of its human rights impact assessment public, perhaps benchmarking a new era for human rights transparency and reporting (Stora Enso, 2015).

We have introduced the possibility of complaining anonymously. Confidentiality is key, and it is important to keep an eye on the security of the person complaining

Manufacturing Industry

Access to a remedy

When it comes to human rights complaint mechanisms, there is a growing focus on establishing or strengthening such mechanisms, and often with a reference to the requirements in the UNGP. However, this area of human rights management remains for the moment, according to our findings, the least developed in terms of a systematic human rights approach.

In most of the companies interviewed, the most systematic part of their human rights approach is what is included in the corporate Code of Conduct, and companies often considered this the highest level of their human rights commitment. Following from that, when we asked about any remedies, the most common human rights complaint mechanism that companies mentioned was a whistleblower system or other complaint mechanism related to the Code of Conduct.

A finding that repeats itself throughout the study is that **when there is no systematic approach to human rights, no specific complaint mechanism exists either**. However, these mechanisms do in fact often exist – client feedback mechanisms, internal and external whistleblower systems, email feedback channels etc. but they are not necessarily defined as human rights remedies. Therefore, building robust human rights complaint mechanisms could start with mapping out existing processes and with analyzing these from the human rights point of view, rather than starting with establishing new mechanisms for the purpose.

Often, companies mentioned that they are currently developing their human rights KPIs in the form of the number of complaints. For the present, companies rarely measure or analyze human rights complaints, as no system for categorizing these as human rights complaints exists. Consequently, the challenge is that of building a system for tracking the human rights complaints among other complaints in the corporate complaints system. This is a key to success when establishing a baseline KPI for human rights complaints.

Putting commitments to action requires the involvement of top management. To ensure full commitment, the Board of Directors also needs to be involved. According to the study, the internal audit function is often involved in a complaint mechanism, as major complaints go through the internal audit process to the Audit Committee. Through the Audit Committee, major human rights complaints usually end up under the scrutiny of the Board of Directors. Some companies have outsourced parts of the whistleblower process, but also in this case major findings are brought to the Boards' attention, discussed and sometimes decided upon on that level.

The study also sought information about compensation in case of violations; remedies for human rights complaints vary, but the majority of companies interviewed mentioned non-monetary compensation as the priority. On the question of where a complaint mechanism adds most value, companies found that **complaint mechanisms are particularly valuable for risk identification**. This underpins the importance of human rights risk mapping, and mitigating human rights risks before they materialize.

Organizational structure and governance of human rights

The organizational structure and governance vary from company to company. Sometimes a centralized unit is overall responsible for coordination, often as part of a broader CSR agenda, while the actual implementation is carried out by various units or at local level. Sometimes the responsibility for human rights is divided between different functions in an organization. According to the companies interviewed, the functions involved include Legal (typically responsible for compliance and the Code of Conduct); CSR or Sustainability (typically responsible for building a systematic human rights approach and reporting on it, both internally and externally); Human Resources (typically responsible for equality, diversity and labor issues), and EHS (environment, health & safety; responsible for operational EHS management). Most often, the overall responsibility is with the owner of the Code of Conduct, who is the Head of Legal, Head of CSR, or even in certain cases the CEO. Mostly, practical management and co-ordination were reported to be within the CSR/Sustainability function. A CEO and a Board would usually be informed through reporting on KPIs or as part of the annual sustainability reporting.

How the Nordics compare with Europe at large

The Nordic Human Rights Study is a parallel study to a European study on human rights, conducted by Deloitte France (2015). Using the same UNGP-inspired framework as a reference point, the European study looked at 82 European companies to map out the status of their human rights management. The scope of the study was the largest of publicly-listed European corporations, chosen from the CAC 40 and STOXX Europe 50 lists and representing 18 different European countries. The method of the study was a combination of desk research using publicly available sources and of interviews with 18 major corporations.

Based on publicly available information from the companies reviewed, the emphasis of human rights management approaches still appears to be at the first stages of a systematic approach, in other words at the first stage of commitment. **All companies reviewed refer to their respect for human rights, with 61% also referring to the UNGP in their statement of commitment.** Other publicly stated human rights approaches include training of employees (43%), top management commitment (30%) and internal complaint or alert mechanisms for human rights (27%).

The European and Nordic studies are strikingly similar in their findings. Both the European and the Nordic study highlight the fact that the role of the UNGP is central to the current 'trend-like' development of the

human rights discussion and practice. This is the main starting point and reference of companies developing a more robust human rights management system.

Both studies also show that those companies who have started implementing their human rights commitments are at the stage of developing and conducting their HRIA practices and first pilots, coupled with looking for and testing potential governance, management and operational level KPIs. Only few companies have already conducted an extensive HRIA, but they are considered to be furthest in the development of a systematic human rights management system. Coupled with the process of identifying the main impacts, many companies from both studies stated that they are currently developing their targets for human rights management.

Companies provided very little specific information on their risk mapping or HRIA. For most companies, the focus is still on first tier suppliers at all stages of their human rights approach: risk mapping, managing impacts, audit, training and reporting. Overall, the European study found that the description of human rights practices tends to be vague in its formulation, lacking specifics. The Nordic study did not include a similar desk research for comparison but a more extensive interview sample.

THE MOST POPULAR APPROACHES TO HUMAN RIGHTS IN BUSINESS



Deloitte France's Les droits de l'homme dans les grandes entreprises européennes, February 2015, free translation by Deloitte Denmark

Both studies show that the added value of stakeholder consultation is referred to in several different stages of the human rights approach: from risk mapping to policy development to human rights impact assessment and complaint mechanisms. Overall, the use of stakeholder consultation is widespread.

In case of non-compliance by suppliers, both the Nordic and European companies opted primarily for capacity building actions instead of the termination of contract, which was reserved for the severest breaches only.

Companies in both studies emphasized the value of industry or multi-sector collaboration. However, as highlighted in the key findings of this study, differences between sectors are notable in this area, also in other European companies and industries.

When it comes to establishing a systematic human rights approach, both studies indicate that human rights are most often addressed as part of 'regular'

social compliance issues and not under the category of human rights as such. For instance, the mention of human rights-focused audits was rare in both studies – usually human rights are part of social audits, focusing on labor-specific human rights. Moreover, human rights complaint mechanisms usually do not exist in stand-alone form or do not necessarily have their own category in the complaint mechanism, but they can be addressed in the same channel as other complaints, for instance a whistleblower system.

In conclusion, within this framework differences between the human rights actions and maturity of the largest European and the largest Nordic corporations are hard to find. The role of the UNGP is unequivocal: companies have started developing more robust, systematic human rights approaches inspired, pressured and guided by the Principles. The conclusions of a comparison between the studies only go to highlight this further.



Conclusions

There are clearly more similarities than differences in the way Nordic companies are experiencing human rights challenges and in the way companies are gradually interpreting these challenges into more systematic human rights management approaches. However, some major differences do exist between companies and industries, for instance in the area of industry collaboration and stakeholder pressure. Factors such as industry, geographical scope, client base, size and exposure to public attention explain these differences – only rarely the company’s home country.

In comparison to major European corporations, Nordic businesses are at an almost surprisingly similar stage in their human rights work. **The interviewed Nordic companies often referred to ‘a Nordic legacy’, which could also explain why some Nordic companies have been moving swiftly in adopting the human rights agenda, even in the light of experiencing less stakeholder pressure than their larger European peers.**

However, the ‘Nordic legacy’ seems to be something of a double-edged sword: for some companies, the Nordic context seemed to guarantee a reason not to commit to more systematic human rights management approach. Typically, when asked about human rights these companies only consider their immediate surroundings, forgetting the supply chain altogether. A typical, simple statement from the companies that have not moved – and have not been forced to move – out of the comfort zone was that “we do not violate human rights”.

It is worth noting that the scope of the Nordic study was indeed the largest, globally operating companies, implying that the operational reality and client and stakeholder base of the companies are very similar to their European counterparts. Yet, the study found some differences in the level of commitment and management among the Nordic companies. Three different categories based on the level of maturity of human rights management arise from the survey:

1 The Forefront

These businesses and/or industries have often undergone a human rights-related reputational crisis a while ago or more recently. Sparked by that, companies have taken human rights as part of their due diligence. Internal buy-in is more manifest than in other companies/industries. Often, these companies have already completed some sort of human rights impact assessments, and they are now developing integrated human rights management approaches further, particularly in the area of complaint mechanisms. The focus on business integration is clear.

2 The Midway

These businesses and/or industries have not faced major – or at least not business-critical – human rights risks materializing. They are highly aware of the growing stakeholder pressure and of the UNGP framework and often have an internal drive ‘to do what is right’. In these companies, the top management and CSR leadership is often committed to the human rights work, but middle management’s commitment and operational management remain a challenge. These companies have worked with different human rights for decades but are now developing a systematic human rights approach for the first time. They are about to conduct a gap analysis of current human rights practices and a UNGP-inspired model to build a roadmap – or they have just done so. Other stages of the approach are still work-in-progress.

3 The Waiting Room

These businesses and/or industries have not been exposed to significant human rights-related risks – yet. Therefore, they have not had the same ‘human rights awakening’ as other Nordic peers. Often, these companies state that they have no human rights challenges, and that all is in order through their high Nordic ethics and Code of Conduct. These companies mostly have a situation where indeed many human rights are protected through already existing systems, but gaps remain because no systematic approach has been taken. The major risk for these companies is in the supply chain, of which they of-ten lack a human rights-focused understanding and/or overview.

The majority of companies interviewed can be placed in second category or between either the first and second, or the second and the third, category. Some pioneers make it to the first category, while some still remain in The Waiting Room – often less globally operating companies that are putting more effort on environmental than social compliance.

Thus, **the most striking finding of the study, also supported by the European findings, is the unprecedented speed at which the UNGP have grown in their current ‘soft law’ status.**

Furthermore, the Principles have not remained a theoretical commitment; both states and companies are working on implementing them, only a few years after their endorsement. As the interviews show, Nordic companies have indeed been working with human rights for several decades – but **the current trend of developing systematic human rights approaches and robust management systems is very closely connected to the role of the UNGP.** The same finding applies to the European companies. Finally, the UN Global Compact should not be forgotten – it has had a significant role to play in earlier approaches to corporate human rights management and still does.



Recommendations

The study draws several recommendations on the next steps for businesses at any stage of their human rights journey. Although some recommendations are more relevant to more mature companies and others to less mature companies, our recommendations offer guidance and inspiration for all companies developing their approaches to managing human rights.

1. **Define your ambition level.** Link this process clearly to your business strategy: who we are as a business and why it is relevant for us to manage human rights. Be ambitious – but pragmatic. Set a concrete, business-minded goal for your company’s human rights approach. This way you speak the language of business from the very start while making the direction clear for everyone.
2. **Map out what you are already doing.** Collect all human rights-related commitments, resources, systems and key contacts into a description of the status quo. This way you will ensure you are not re-building something that already exists.
3. **Conduct a gap analysis.** For this, the UNGP and UN Global Compact’s instruments offer excellent starting points, but it is also important to integrate your ambition level and specific business-minded goals in the framework against which the gap analysis is conducted.
4. **Develop an action plan and a roadmap.** Here, several findings from the study can be used to guide actions:
 - a. *Integrate, integrate, integrate.* Look at existing processes and think which are relevant for the chosen human rights approach. And then – integrate.
 - b. *Make human rights as specific as possible.* The more concrete the issues and actions are, the easier it is to understand the business relevance of human rights and thus to get the necessary business buy-in.
 - c. *Invest in middle management’s commitment.* The study shows that, when moving from commitment to implementation, human rights management lives and dies with the commitment of middle management to the issue. Actions speak louder than words – and this is where you need middle management close to the operational level of the business and its human rights risks.
 - d. *Build a training-focused audit program.* Combine audit with training wherever possible and relevant. This is the best way to get the most out of audits and taps into the current trend by pioneering companies, as the study shows. This helps build long-term commitment with suppliers, which may bring down operational costs as well.
5. **Communicate transparently but carefully,** keeping different stakeholders and their interests in mind. Communicating about human rights issues is not easy, due to their vastness and political nature. Thus, make it concrete and contextual but also understand what fuels the different stakeholder groups. Transparency is the talk of the day and the best policy here; but choose your battles well and keep your backyard in order. White-washing is out of fashion for good.

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United Nations, 2011. Guiding Principles on Business and Human Rights - Implementing the United Nations "Protect, Respect and Remedy" Framework, New York and Geneva: United Nations.

Links and reports – further readings:

Universal Declaration of Human Rights: www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng

UN Guiding Principles on Business and Human Rights: www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

UN Guiding Principles Reporting Framework: www.ungpreporting.org/consult-the-reporting-framework/download-the-reporting-framework

UN Global Compact: www.unglobalcompact.org/

Business and Human Rights Resource Centre: <http://business-humanrights.org/>

Office of the High Commissioner for Human Rights (OHCHR): www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx

OHCHR: Human Rights Indicators: A Guide to Measurement and Implementation: www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx

Human Rights and Business Dilemmas Forum: <http://hrbdf.org/>

Business for Social Responsibility: www.bsr.org/reports/BSR_Human_Rights_Impact_Assessments.pdf

Guide to Human Rights Impact Assessment and Management (International Business Leaders Forum (IBLF) and International Finance Corporation (IFC), in association with the United Nations Global Compact):

www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Guide+to+Human+Rights+Impact+Assessment+and+Management

Global Reporting Initiative: www.globalreporting.org

IFC Performance Standards on Environmental and Social Sustainability: www.ifc.org/

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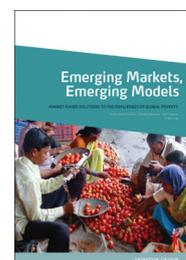
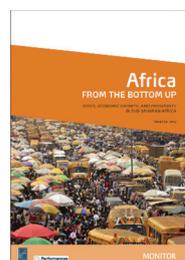
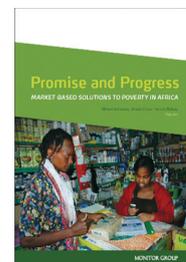
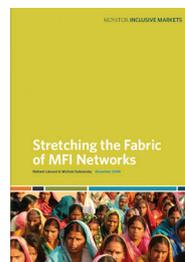
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Thought leadership

Deloitte has published several studies on management issues of human rights in businesses and supply chain, as well as on specific thematic reports, such as forced labor and trafficking.



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